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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|---------------------------------|---------------------|------------------|
| 09/384,422 | 08/27/1999 | PETER PAUL CAMILLE DE SCHRIJVER | Q55464 | 7818 |

7590 02/24/2004

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| EXAMINER |
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HOANG, THAI D

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| ART UNIT | PAPER NUMBER |
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2667

DATE MAILED: 02/24/2004

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/384,422

Applicant(s)

DE SCHRIJVER ET AL.

Examiner

Thai D Hoang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The finality of the previous Office action is withdrawn. A new and non-final action, based on newly found art follows.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 3, 5-7, 9-12 are rejected under 35 U.S.C. 102(e) as being unpatentable over Chuah et al., US patent No. 6,519,254 B1, hereafter referred to as Chuah.

Regarding claims 3 and 7, Chuah discloses a method and system called Resource Reservation Protocol (RSVP) based tunnel protocol providing integrated services. Chuah discloses that the system comprises an Internet provider 15, which sends data over a link to another Internet provider 25 for communication of data over a second networks connected by a T1/E1 link 21, wherein the Internet provider 15

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performs as a tunnel source point (TSP) and the Internet provider 25 performs as a tunnel destination point (TDP). Chuah teaches that in RSVP, the granularity of a QoS request is determined on a per packet flow basis. When a new end-to-end RSVP PATH message reaches the TSP, the TSP simply encapsulates the end-to-end RSVP PATH message. Attached to the RSVP PATH message are the Sender TSpec object and the ADSPEC object, wherein the Sender TSpec object specifies the flow characteristics the sender is capable of sending; figs. 2-5; col. 1, lines 29-30; col. 3, lines 4-8; col. 4, lines 60-62 (data sending means (DSM), adapted to send said data towards said DRE; service level requesting means for generating an Internet Protocol Control Protocol (IPCP) message, for sending to said DRE, requesting a service level for communicating said data of said DTE over said second communications network). Furthermore, Chuah discloses the TDP determines the appropriate RSVP tunnel for this end-to-end RSVP session, if admitted (step 230 of FIG. 5) forms a TUNNEL_BINDING object for notifying the TSP of the session to tunnel binding. In response to the received TUNNEL_BINDING object, the TSP uses the tunnel assigned by the TDP for the end-to-end RSVP session; figs. 2-5; col. 5, lines 5-18 (service level proposal receiving means: adapted to receive from said DRE an IPCP message indicating a proposed service level that said DRE can provide for communicating said data of said DTE over said second communications network, and notifying said DSM of said service level proposal.)

Regarding claims 5-6, 9-12, Chuah discloses that the TDP adapted to receive data from TSP. When the TDP receives this RSVP RESV message (step 220 of FIG. 5),

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the TDP, in accordance with the invention, determines the appropriate RSVP tunnel for this end-to-end RSVP session by executing a receiver-driven tunnel assignment/admission control procedure (step 225 of FIG. 5) and, if admitted (step 230 of FIG. 5) forms a TUNNEL_BINDING object for notifying the TSP of the session to tunnel binding. The TDP then encapsulates the end-to-end RSVP RESV message (along with the attached TUNNEL_BINDING object) and sends it to the TSP (step 240 of FIG. 5); figs. 2-5; col. 5, lines 5-15 and 55-60; col. 12, line 64-col. 13 line 6 (Data receiving element comprising: data receiving means (DRM), adapted to receive said data from said DTE; service level negotiating and proposing means, for determining a service level that said DRE can provide for communicating said data of said DTE with said second communications network, based on at least one predetermined criterion and on said requested service level, and formulating, as a service level proposal, an IPCP message indicating said determined service level; and service level proposal sending means, coupled with said service level negotiating and proposing means, for sending said IPCP message as said service level proposal.)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chuah et al., US patent No. 6,519,254 B1, hereafter referred to as Chuah.

Regarding claims 4 and 8, Chuah teaches that the system performs functions as recites in claims 4 and 8; col. 4, line 60-col. 5, line 20 and col. 12, line 50-col. 13, line 11. Chuah does not explicitly disclose a structure of the system to perform those functions. However, in order to perform the functions, the system disclosed by Chuah must has a plurality of elements, which are interconnected to implement the functions of the system.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US patent No. 6,594,279 B1, Nguyen et al. disclose "Method and apparatus for transporting IP datagrams over synchronous optical networks at guaranteed quality of service"

US patent No. 6,359,863 B1, Varma et al. disclose "Rate allocation system and method for ATM switched networks"

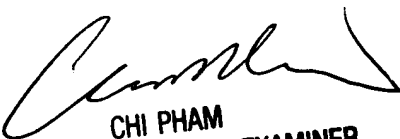
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thai D Hoang whose telephone number is (703) 305-3232. The examiner can normally be reached on Monday-Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on (703) 305-4378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thai Hoang


CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600 2/23/04